

MEMORANDUM

To: Water Management Division Staff

From: Norman C. Young *NY*

RE: SECTION 42-203A, IDAHO CODE - CONSERVATION CRITERION

Date: October 9, 1990

Application Processing No. 48

Effective July 1, 1990, Section 42-203C, Idaho Code, provides a sixth (6th) criterion to consider in the approval of an application for a permit. The criterion reads as follows:

"(f) that it is contrary to conservation of water resources within the state of Idaho;"

This criterion was added to the Idaho Code by a legislative committee for the purpose of helping to regulate the out-of-state diversion of Idaho's water. The term "conservation" is not defined in the legislative intent or in the amendment. The department's water appropriation rules and regulations will address the meaning and application of the word "conservation", but until the rules are amended in compliance with the Administrative Procedures Act, the general use and application of the term should be as described below.

"Conservation" can be interpreted to relate to a standard of efficiency either in conveyance efficiency, application efficiency, energy production or energy consumption associated with a proposed use of water. The term may also be interpreted to allow limitation or denial of certain water uses in order to "conserve" the water for other water uses deemed to be more beneficial. Due to lack of stated legislative intent, the department will apply the criterion in terms of efficiency as is generally suggested by the term.